

REMARKS

By this paper, no claims are amended, added, or cancelled. Accordingly, claims 1-14, 16 and 17 are pending in the application. In view of the following Remarks, allowance of all the pending claims under examination is anticipated.

Rejection Under 35 U.S.C. § 102 Based on Quarterman

The Examiner has rejected claims 1, 13, 16, and 17 under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent Application Publication No. 2002/0177910 to Quarterman *et al.* ("Quarterman"). Applicants traverse this rejection as being improper at least because the disclosure of Quarterman relied on by the Examiner does not qualify as prior art under 35 U.S.C. § 102(e).

The instant application claims priority from U.S. Provisional Patent Application No. 60/213,211, filed June 21, 2000 ("the '211 application"). The '211 application provides support for the claimed inventions of claims 1, 13, 16, and 17. Quarterman was filed on August 14, 2001. As such, the filing date of Quarterman does not provide pre-date the priority of the instant application.

Quarterman is a Continuation-in-Part of several applications, all of which were filed on April 13, 2001 (which still does not pre-date the priority date of the instant application, June 21, 2000). In turn, the applications from which Quarterman claims priority for a portion of its contents also claim priority to a litany of provisional applications. Of these provisional applications, only three were filed prior to the priority date of the instant application (June 21, 2000). These provisional applications include U.S. Provisional Patent Application No. 60/198,608, filed April 19, 2000 ("the '608 application"); U.S. Provisional Patent Application No. 60/198,610, filed April 19, 2000 ("the '610 application"); and U.S. Provisional Patent Application No. 60/198,783, filed April 20, 2000 ("the '783 application"). Therefore, it is only by affording the disclosure of Quarterman with priority from one or more of the '608, the '610, or the '783 application that Quarterman qualifies as prior art under 35 U.S.C. § 102(e).

In order for (*i*) a claim of priority to a parent application, where the child is a Continuation-in-Part, or (*ii*) a claim of priority to a provisional application, to provide the 35 U.S.C. § 102(e) critical reference date of a U.S. Patent or a U.S. Application

Publication (both of which apply in the instant case) for a rejection under 35 U.S.C. § 102(e), the cited subject matter in the patent or application publication relied on for the rejection under 35 U.S.C. § 102(e) must be supported in the parent application(s) that pre-date the application under examination. This must support must rise to a level that complies with 35 U.S.C. § 112. M.P.E.P. §§ 2136.03(III)-(IV); see also M.P.E.P. § 706.02 (f)(1), examples 5-9.

Thus, in order for Quarterman to qualify as prior art under 35 U.S.C. § 102(e) with respect to claims 1, 13, 16, and 17, the disclosure of Quarterman that allegedly discloses the features of these claims must be supported in the '608, '610, and/or '783 applications such that one of ordinary skill in the art would have been enabled to make and/or use the invention disclosed in the relied upon passages of Quarterman. The features of the claimed inventions of claims 1, 13, 16, and 17 are not disclosed in the '608, '610, and '783 applications. Therefore, even if the cited passages of Quarterman disclosed each and every feature of the claimed inventions of claims 1, 13, 16, and 17 (Applicants argue that they do not), these passages would not be supported by the '608, '610, and '783 applications. Accordingly, assuming *arguendo* that the sections of Quarterman relied on by the Examiner disclose the features of claims 1, 13, 16, and 17, these sections of Quarterman do not constitute prior art under 35 U.S.C. § 102(e). For at least this reason the rejections of claims 1, 13, 16, and 17 are improper and must be withdrawn.

Rejections Under 35 U.S.C. § 103

The Examiner has rejected claims 2-4 and 14 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Quarterman in view of U.S. Patent No. 6,098,195 to Northcott ("Northcott"); and claims 5-12 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Quarterman in view of U.S. Patent No. 6,327,677 to Chandra *et al.* ("Chandra"). Applicants traverse these rejections at least because the references relied upon by the Examiner, either alone or in combination with one another, do not teach or suggest all the features of the claimed invention.

More particularly, the cited portions of Northcott and Chandra fail to address the deficiencies of Quarterman discussed above. Because claims 2-12 depend from claim

1, and claim 14 depends from claim 13, the rejection of claims 2-12 and 14 based on Quarterman, Northcott, and/or Chandra must be withdrawn based on their dependency as well as for the features that they recite individually.

CONCLUSION

Having addressed each of the foregoing rejections, it is respectfully submitted that a full and complete response has been made to the outstanding Office Action and, as such, the application is in condition for allowance. Notice to that effect is respectfully requested.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

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Respectfully submitted,

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